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DISCUSSION DOCUMENT AND MODIFICATIONS TO 310 CMR 19.000, SOLID WASTE MANAGEMENT FACILITY REGULATIONS

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I. INTRODUCTION

This document contains proposed modifications to the Solid Waste Management Facility Regulations, 310 CMR 19.000. Each section of the regulations for which there is a proposed modification is preceded by a brief description of why a modification is being proposed. The proposed modifications are indicated by showing text to be added indicated by double underline and ~~text to be deleted with a line through it~~.

All interested parties are encouraged to submit either written or oral comments during the public comment period which ends on **February 7, 1997**. During this comment period DEP will hold public hearings in several locations as described in the enclosed notification..

To submit written comments or obtain further information, please contact:

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III. MODIFICATIONS

Definitions, 19.006

Abutter

19.000 uses the term "abutter" in the regulations without defining that term. Questions have arisen about whether someone with property across a street or roadway from a site constitutes an abutter. The new definition clarifies this issue.

Non-MSW or Non-municipal solid waste

There is currently no definition for "non-MSW" or "non-municipal solid waste" in either 310 CMR 19.000 or 310 CMR 16.00. The 1995 Master Plan Update distinguishes between need for MSW and non-MSW capacity and therefore a definition is needed.

Site Assignment

The definition of site assignment is proposed to be modified by adding a grandfathering provision for solid waste handling facilities that were in operation prior to August 28, 1970. This date is when "transfer stations" were added to the definition of "facilities" regulated by c.111, s.150A. Under the current regulations, "handling facilities" include transfer stations as well as other types of solid waste processing operations.

Water Supply Definitions

Several definitions related to water supply issues are being proposed for modification or addition to the solid waste regulations to maintain consistency between the solid waste regulations and other Department regulations and programs. Several definitions are proposed to be modified and several others proposed for addition to both 310 CMR 16.00 and 310 CMR 19.000. Because these proposed modifications primarily affect the regulations for siting solid waste facilities, discussion of these changes has not been included here. For discussion of these changes please see the discussion document accompanying the changes to the Site Assignment Regulations, 310 CMR 16.00.

TEXT SHOWING CHANGES

19.006: Definitions.

Abutter means the owner of land sharing a common boundary or corner with the site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.

Interim Wellhead Protection Area (IWPA) means an area defined by 310 CMR 22.02, Drinking Water Regulations, as may be amended. ~~extending to a 1/2 mile radius from a public water supply wellhead which is intended to protect the wellhead pending the delineation of its Zone II.~~

[NOTE: WATER SUPPLY REGULATIONS DEFINITION - Interim Wellhead Protection Area (IWPA). For public supply wells or wellfields that lack a Department approved Zone II, the Department will apply an interim wellhead protection area. This interim

wellhead protection area shall be a one-half mile radius measured from the well or wellfield for sources whose approved pumping rate is 100,000 gpd or greater. For wells that pump less than 100,000 gpd, the IWPA radius is proportional to the well's approved daily volume which may be calculated according to the following equation: IWPA radius in feet = [32 x pumping rate in gallons per minute] + 400.

New Site means a parcel of land for which an applicant seeks a site assignment as a solid waste facility which has not been previously assigned and is not contiguous to an existing site assigned area.

Non-Municipal Solid Waste (Non-MSW) means solid waste which is not residential or commercial solid waste and which includes, but is not limited to, wastes such as construction and demolition debris and industrial solid wastes.

Proposed Drinking Water Source Area means the preliminary Zone II or the preliminary IWPA for a proposed water supply well that has received a site exam approval by the Department and is actively pursuing source approval as set forth in the Drinking Water Regulations at 310 CMR 22.21, Source Approval.

Potential Private Water Supply means a Class I aquifer as defined at 314 CMR 6.03: *Ground Water Quality Standards*, as may be amended, ~~capable of yielding water of sufficient quality and quantity~~ which is located under a parcel of land that at the time of the earlier of the following two filings, the Site Assignment Application or, where applicable, the Massachusetts Environmental Policy Act Environmental Notification Form, is:

- (a) zoned residential or commercial;
- (b) not served by a public water supply; and
- (c) subject to a subdivision plan or a building permit application approved by the appropriate municipal authority.

Potentially Productive Aquifer means:

- (a) all aquifers delineated by the U.S. Geological Survey (USGS) as a high or medium yield aquifer; and
- (b) all aquifers located east of the Cape Cod Canal (Cape Cod), on the Elizabeth Islands, on Martha's Vineyard, or on Nantucket.

Potential Public Water Supply means a drinking water source which, at the time of the earlier of the following two filings, the Site Assignment Application, or where applicable, the Massachusetts Environmental Policy Act Environmental Notification Form, has been determined to be capable of yielding water of sufficient quality and quantity for future development as a public water supply, and either:

- _____ (a) has been designated and received Departmental approval under the "Guidelines and Policies for Public Water Systems", as amended; or
- _____ (b) has had the necessary documentation submitted on its behalf for determination as a Potential Public Water Supply as defined by the Department's Division of Water Supply.

Site Assignment means a determination by a board of health or by the Department as specified in M.G.L. c. 111, § 150A that which:

- (a) designates an area of land for one or more solid waste uses subject to conditions with respect to the extent, character and nature of the facility that

may be imposed by the assigning agency after a public hearing in accordance with M.G.L. c.111, s.150A; or

(b) establishes that an area of land was utilized as a site for the disposal onto land of solid waste or as a site for a refuse disposal incinerator prior to July 25, 1955, ~~as provided in St. 1955, c. 310, § 2.~~ The area of land ~~determined to be~~ site assigned under this subsection shall be limited to the lateral limits of the waste deposition area ("the footprint") or the area occupied by the incinerator on July 25, 1955, except as otherwise approved by the Department in approved plans. Said assignment shall apply only to uninterrupted solid waste disposal activities within the footprint or plan-approved area and shall have no legal force or effect at any time after the cessation ~~commencement~~ of ~~non-~~disposal activities except as otherwise provided at 310 CMR 16.21; or

(c) establishes that an area of land was utilized as a site where a handling facility was in existence prior to August 28, 1970 and has been in operation since August 28, 1970.

Watershed means a region or area measured in a horizontal topographic divide which directs surface water runoff from precipitation, normally by gravity, into a stream or a body of impounded surface water.

Zone A means: a) the land area between the surface water source and the upper boundary of the bank; b) the land area within a 400 foot lateral distance from the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a), or edge of watershed, whichever is less; and c) the land area within a 200 foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body, or edge of watershed, whichever is less.

Zone B means the land area within one-half mile of the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a), or edge of watershed, whichever is less.

Zone C means the land area not designated either Zone A or Zone B within a watershed of a public surface water source.

Zone of Contribution means the recharge area that provides water to a well.

Zone I means an area defined by 310 CMR 22.02, Drinking Water Regulations, as may be amended.

[NOTE: WATER SUPPLY REGULATIONS DEFINITION - Zone I means the protective radius required around a public water supply well or wellfield. For public water system well with approved yields of 100,000 gpd or greater, the protective radius is 400 feet. Tubular wellfields require a 250 foot protective radius. Protective radii for all other public water system wells are determined by the following equation: Zone I radius in feet = (150 x log of pumping rate in gpd) - 350. This equation is equivalent to the chart in the Division's Water Supply Guidelines.]

Zone II means an area defined by 310 CMR 22.02, Drinking Water Regulations, as may be amended. ~~means that area of an aquifer which contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (ie. pumping at the safe yield of the well for 180 days without any natural recharge occurring); it is bounded by the~~

~~groundwater divides which result from pumping the well and by contact of the edge of the aquifer with less permeable materials such as till and bedrock. At some locations, streams and lakes may form recharge boundaries. For the purposes of these regulations, a Zone II area is one which has been defined and delineated in accordance with the Department's Division of Water Supply "Guidelines for Public Water Systems", September, 1984 Supplement to the 1979 edition or the most recent version thereof.~~

[NOTE: WATER SUPPLY REGULATIONS DEFINITION - Zone II means that area of an aquifer which contributes water to a well under the most severe safe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield, with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by contact of the edge of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).]

Modifications Related to the Criteria that Subject Disposal Facilities to the Capacity Need Limitations (19.038) and the Proposed Capacity Allocation Process.

The regulations at 19.038 contain the provisions that determine which permit criteria are applicable to certain classes of solid waste facilities. Currently, a landfill or combustion facility will be subject to the integrated solid waste management (ISWM) criteria at 19.038(2)(a)11-13, also known as the "needs analysis", if the facility is a new facility or if it is an expansion which the Secretary of the Executive Office of Environmental Affairs (EOEA) determines requires an Environmental Impact Report (EIR) under the MEPA regulations.

The proposed regulations will change this classification system. All new or expanding facilities, except for a limited number of exceptions, will be subject to the Department's provisions regarding disposal capacity need and capacity allocation process set out in the proposed Capacity Allocation Process (CAP) Regulations that will be included in 310 CMR 16.00. Thus, a determination by the Secretary that a project requires an EIR will no longer be the trigger for applying the needs analysis provisions of the regulations. In essence, all new or expanding landfills will be subject to the CAP process. The only possible exception will be for certain landfills disposing of less than 50 TPD. To address these small landfills a waiver process has been added to the Site Assignment Regulations at 310 CMR 16.39 which establishes rules for applying for a waiver, reviewed by the Commissioner of DEP, from site assignment application requirements. The modifications to 310 CMR 19.038 below refer to this waiver process under the Site Assignment Regulations which if granted would allow a landfill of less than 50 tpd to go through the site assignment and permitting processes without being subject to the CAP regulations. Criteria for granting such a waiver include the need to demonstrate that the landfill will serve a local or regional need, the municipality will implement programs to reduce or prevent landfilling of materials with toxic constituents, the community meets or will meet at least the average recycling rate for the state, the project has support of the community, and the project has sufficient funding for closure and post-closure.

In addition, the CAP regulations also clarify DEP's authority to project capacity need and allow disposal projects to proceed only when DEP determines additional disposal capacity is required. The proposed CAP regulations incorporate the ISWM permit criteria currently included at 310 CMR 19.038 (2)(a)11.-13 as evaluation factors in determining which projects are allocated disposal capacity. Therefore, these ISWM criteria have been deleted from 310 CMR 19.038.

Endangered Species Criteria for Permitting, 19.038(2)(a)10.

The language relating to endangered species protection is substantially different in 310 CMR 16.40(4)(c) and 310 CMR 19.038(2)(a)10. The requirements of these two sections should be consistent. We are proposing to modify the criteria at 19.038(2)(a)10 to match that contained at 16.40(4)(c).

TEXT SHOWING CHANGES

19.038: Criteria for Review of Applications for a Permit or Permit Modification

NOTE: This entire section has been substantially rewritten and therefore not all changes from the current regulations have been delineated in double underline or ~~strikeout~~.

- (1) Applicability of Criteria. The criteria the Department shall apply when reviewing various permit applications (e.g. landfills, combustion facilities, handling facilities, post-closure use) are specified below.
- (a) Landfills. Permits for new or expanding landfills shall comply with criteria at 310 CMR 19.038(2)(a), (c) and (d).
 - (b) Other Modifications of Landfills. Permits for modifications of landfills not subject to 310 CMR 19.038(1)(a) shall comply with the criteria at 310 CMR 19.038(2)(a).
 - (c) Combustion Facilities. Permits for new or expanding combustion facilities shall comply with the criteria at 310 CMR 19.038(2)(a), (b) and (d).
 - (d) Other Modifications of Combustion Facility Operations. Permits for modifications of combustion facilities not subject to 310 CMR 19.038(1)(c) shall comply with the criteria at 310 CMR 19.038(2)(a).
 - (e) Handling Facilities. Permits for new or expanding handling facilities shall comply with the criteria at 310 CMR 19.038(2)(a) and (b).
 - (f) Other Modifications of Handling Facility Operations. Permits for modifications of handling facilities not subject to 310 CMR 19.038(1)(e) shall comply with the criteria at 310 CMR 19.038(2)(a).
 - (g) Post-Closure Use. Permits for the post-closure use of a facility for purposes other than use as a solid waste management facility shall comply with the criteria at 310 CMR 19.038(2)(a)2, 5, 6, 8, 10,
- (2) Criteria for Review of Applications for a Permit or Permit Modification.
- (a) General Criteria. In accordance with the provisions of 310 CMR 19.038(1) the Department shall consider the following criteria in reviewing an application for a permit or permit modification:
 - 1. the facility has received a notification to proceed under the Capacity Allocation Process (CAP) pursuant 310 CMR 16.22 for those facilities subject to CAP as set forth at 310 CMR 16.11(1) unless the facility has received a waiver from the process pursuant to 310 CMR 16.39;
 - ~~2.1-~~ the applicant has received certification from the Secretary of Environmental Affairs that the applicant has complied with the Massachusetts Environmental Policy Act (MEPA) process;
 - ~~3.2-~~ the facility is located within the boundaries of a valid site assignment;
 - ~~4.3-~~ the design, construction, operation, and maintenance of the facility and its environmental monitoring systems shall be accomplished in compliance with requirements set forth in 310 CMR 19.000, and such policies as the Department establishes governing solid waste management facilities;
 - ~~5.4-~~ the design, construction, operation, and maintenance of the facility shall not result in nuisance conditions, or constitute a threat to the public health, safety or the environment;

~~6.5.~~ the facility design and operation includes components and measures which will assure compliance with other applicable state and federal laws, regulations and policies, including without limitation, 314 CMR 3.00 through 12.00 (water pollution control); 310 CMR 22.00 and 27.00 (water supply); 310 CMR 7.00 (air quality); and 40 CFR 257 and 258 as may be amended;

~~7.6.~~ the facility shall be in compliance with the waste ~~bans~~ disposal restrictions established ~~under~~ at 310 CMR 19.017;

~~8.7.~~ violations of applicable statutes and regulations, judicial orders or administrative order or conditions of a prior plan approval/permit issued by the Department are corrected, and any fines and penalties associated with any of the above, which are related to the site or facility have been paid or are pending administrative or judicial appeal;

~~9.8.~~ the construction, operation and maintenance of the facility does not represent a bird hazard;

~~10.9.~~ the ground support for the structural components of the facility is adequate;

11. the construction, operation, and maintenance of the facility will not:

a. have an adverse impact on Endangered, Threatened, or Special Concern species listed by the Natural Heritage and Endangered Species Program of the Division of Fisheries and Wildlife in its database;

b. have an adverse impact on an Ecologically Significant Natural Community as documented by the Natural Heritage and Endangered Species Program in its database; or

c. have an adverse impact on the wildlife habitat of any state Wildlife Management Area.

~~10. the construction, operation, or maintenance of the facility will not cause or contribute to the taking of any endangered or threatened species of plants, fish or wildlife as identified in 50 CFR Part 17;~~

~~11. the yearly and lifetime capacity potentially created by the proposed facility or expansion in relation to the reasonably anticipated disposal capacity requirements and reduction/diversion goals of the Commonwealth and the geographic area(s) which the site will serve;~~

~~12. the extent to which the facility operations, alone or in conjunction with other facilities, maximizes diversion or processing of each component of the anticipated waste stream in order to first reduce adverse impacts and utilize materials and only thereafter to extract energy from the remaining solid waste prior to final disposal; and~~

~~13. the extent to which the facility operations, alone or in conjunction with other facilities, will contribute to the establishment and maintenance of a statewide integrated solid waste management system which will protect the public health and environment and conserve the natural resources of the Commonwealth.~~

Modifications to the Criteria for Permitting Combustion Facilities, Handling Facilities and Landfills (19.038(2)(b) and (c)) Related to Changes to the Water Supply Definitions.

As mentioned in the definitions section of this document, the Department is proposing to modify or add several definitions related to protection of water supplies. As these changes primarily affect the siting of facilities they have been discussed in detail in the background document for the modifications to the Site Assignment Regulations, 310 CMR 16.00, and therefore will not be addressed in detail here.

The criteria for permitting solid waste facilities, 310 CMR 19.038, contains most of the setbacks and siting criteria that are contained in the Site Assignment Regulations. Therefore, it is necessary to modify the permitting criteria so that they will remain consistent with the siting criteria. These setbacks and siting criteria are contained in the Solid Waste Management Facility Regulations as well as in the Site Assignment Regulations to allow DEP to apply them to situations where the facility being permitted has a site assignment that predates the issuance of the Site Assignment Regulations and its siting criteria. If these siting criteria were not contained in the permitting regulations then older facilities with old site assignments, for which there were no siting criteria applied, would have to meet less stringent standards for permitting than newer facilities which were site assigned in accordance with the siting regulations.

TEXT TO BE CHANGED

(b) Combustion Facilities and Handling Facilities. In addition to the criteria set forth under 310 CMR 19.038(2)(a), the Department shall consider the following criteria in reviewing an application for a permit or permit modification for combustion facilities and handling facilities:

1. the construction, operation and maintenance of the facility, if located or proposed to be located in a Zone II area or Interim Wellhead Protection Area shall not result in an adverse impact to an existing public water supply, proposed drinking water source area, or existing or potential ~~public or~~ private water supply well;
3. the waste handling areas shall not be within the following distances unless, as applicable, a waiver has been obtained under 310 CMR 16.00 or a variance is obtained under 310 CMR 19.080:
 - e. within the Zone A 500 feet upgradient or 250 feet downgradient of a surface drinking water supply.

(c) Landfills. In addition to the criteria set forth under 310 CMR 19.038(2)(a), the Department shall consider the following criteria in reviewing an application for a permit or permit modification for a landfill:

1. any area of waste deposition of the landfill is not located:
 - a. in the Zone II area of an existing public water supply; ~~or potential public water supply well~~;

- b. within 15,000 feet upgradient of an existing public water supply well unless a preliminary Zone II determination has been ~~completed and~~ approved by the Department and the Department determines that the landfill is not located in the Zone II area;
 - c. in the Interim Wellhead Protection Area (IWPA) of an existing public water supply or ~~potential public water supply well~~, unless a preliminary Zone II delineation has been approved by the Department and the Department determines that the landfill is not located in the Zone II area;
 - d. in a proposed drinking water source area, provided that the documentation necessary to obtain a source approval has been submitted prior to the earlier of either the site assignment application, or where applicable, the Massachusetts Environmental Policy Act Environmental Notification Form;
 - ~~e.d.~~ in the recharge area for a sole source aquifer, unless:
 - i. there are no existing public water supplies or proposed drinking water source areas ~~public ground water supplies~~ downgradient of the site;
 - ii. there are no existing or potential private ~~ground~~ water supplies downgradient of the site; however, the applicant may have the option of providing an alternative public water supply to replace all the existing or potential downgradient private groundwater supplies; and
 - iii. there is a sufficient existing public water supply or proposed drinking water source area to meet the municipality's projected needs.
 - f. in the zone of contribution of an existing public water supply or proposed drinking water source area, or the recharge area of a surface drinking water supply pursuant to a municipal ordinance or by-law enacted in accordance with MGL c. 40A, section 9;
2. the landfill is not located on a site on which the Department determines it infeasible to adequately conduct appropriate environmental monitoring;
 3. the landfill does not represent a threat to public health, safety or the environment due to concentration or migration of explosive gases, excluding gas control or recovery system components, at the facility or beyond the facility property boundary;
 4. any area of waste deposition or the leachate containment structure of a landfill shall not be located within a resource area protected by the Wetlands Protection Act, M.G.L. c. 131, § 40, including the 100 year floodplain;
 5. the outermost limits of the waste deposition area for new landfills or expansions of landfills shall not be within the following distances unless, as applicable, a waiver has been obtained under 310 CMR 16.00 or a variance has been obtained under 310 CMR 19.080:
 - a. 100 feet of the nearest edge of the property boundary, provided that a shorter distance consistent with the necessary operating and maintenance requirements of the facility may be

approved for that portion of the waste deposition area which borders a solid waste management facility;

b. 500 feet of a private water supply well;

c. 500 feet of an occupied residential dwelling, bedded health care facility, prison or lower educational institution or children's pre-school, excluding equipment storage or maintenance structures;

d. a resource area protected by the Wetlands Protection Act, M.G.L. c. 131, § 40, and the regulations promulgated thereunder at 310 CMR 10.00, including the 100 year floodplain;

e. within the Zone C of a surface drinking water supply if a new landfill and within the Zone B of a surface drinking water supply if an existing landfill; ~~2500 feet upgradient or 500 feet downgradient of a surface drinking water supply;~~

f. ~~400~~ 250-feet upgradient of a perennial watercourse that drains to a surface drinking water supply where the landfill is within one mile of the surface drinking water supply; or

g. 250 feet of a lake, pond or river (not including a stream) as defined in 310 CMR 10.00, other than a drinking water supply; or

h. 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the owner or operator demonstrates that an alternative setback of less than 200 feet will prevent damage to the structural integrity of the landfill;

Modifications to the Transition Requirements and Application Requirements, 310 CMR 19.020, 19.021, 19.022, and 19.030

The transition requirements and application requirements for existing facilities currently contained in the regulations are no longer necessary. These requirements were originally established when the regulations were promulgated in 1990 to specify application requirements and permitting criteria for bringing existing landfills and other solid waste management facilities into compliance with the new regulations. Since the regulations were first promulgated in 1990 most existing landfills have either been re-permitted or have signed a consent order with DEP for closure and capping of the landfill or are undergoing negotiations for such a consent order. Most other facilities have received new permits or are in that process at this time.

Removal of the transition requirements and application requirements for existing landfills and other solid waste management facilities will greatly simplify and streamline the regulations and make it much easier to understand how the application and permitting criteria apply for any given project.

TEXT TO BE CHANGED

This section has been modified by moving in sections from 19.021.

19.020: Permit Requirements for Solid Waste Management

- (1) Permit Requirements for Construction and Operation of Solid Waste Management Facilities. ~~Except as allowed under 310 CMR 19.021,~~ No person shall construct, operate or maintain a facility to store, process, transfer, treat or dispose of solid waste except in accordance with:
- (a) a valid site assignment;
 - (b) a solid waste management facility permit (hereafter permit), issued after May, 1990 in accordance with 310 CMR 19.000;
 - (c) an authorization to construct the facility issued by the Department in accordance with 310 CMR 19.041; and
 - (d) an authorization to operate the facility issued by the Department in accordance with 310 CMR 19.042.

(2)(4) Inactive Landfill Facilityies Filing—[NOTE: This section was moved from 19.021(4)]

- (a) The owner of an inactive landfill or dumping ground that was in operation after April 21, 1971 but ceased operations prior to July 1, 1990 shall file:
 - 1. proof that the facility was closed in accordance with plans approved by the Department; or
 - 2. a final closure and post-closure plan in accordance with 310 CMR 19.030(3)(c)5. if the facility was not closed in accordance with a closure/post-closure plan approved by the Department.
- (b) The owner of an inactive landfill or dumping ground that ceased operations prior to April 21, 1971 may be required to file a final closure and post closure-plan if so ordered by the Department.

19.021: Transition Requirements for Existing Facilities

- ~~(1) Continued Operation and Maintenance of Existing Facilities. After July 1, 1990 and until an existing approval or permit expires in accordance with 310 CMR 19.021(2) an existing facility may continue to operate and conduct the solid waste activities approved under its prior approval or permit provided:~~
- ~~(a) the facility has a valid site assignment;~~
 - ~~(b) the facility operates in accordance with either an approved plan issued by the Department on or before December 17, 1987 and letter of compliance issued pursuant to 310 CMR 19.04(3) [1971 landfill regulations] or 310 CMR 18.04 [1980 Transfer Station Regulations]; or with a permit issued by the Department pursuant to its Interim Policy on Issuance of Solid Waste Management Facility Permits (SWM 13 6/89) prior to July 1, 1990 and written authorization to operate;~~
 - ~~(c) operations are conducted in accordance with the conditions of the prior approval or permit and the applicable operation and maintenance requirements of 310 CMR 19.000;~~
 - ~~(d) an authorization to operate pursuant to 310 CMR 19.042 is granted before operations commence in any new area;~~
 - ~~(e) the facility, if a landfill or solid waste combustion facility, complies with the requirements set forth at 310 CMR 19.017: *Waste Control*; and~~
 - ~~(f) an existing facility permit application has been filed in accordance with the schedule set forth in 310 CMR 19.021(3).~~
- ~~(2) Expiration of Existing Approvals or Permits. Plan approvals and permits granted by the Department prior to July 1, 1990 (prior approval or permit) shall no longer be valid when:~~
- ~~(a) the owner or operator fails to submit an existing facility permit application within the period specified in 310 CMR 19.021(3)(a), (b), (d) and (e) and, for facilities subject to 310 CMR 19.021(3)(c), prior to October 1, 1992; or~~
 - ~~(b) the prior approval or permit is superseded by a facility permit granted by the Department in accordance with 310 CMR 19.000; or~~
 - ~~(c) the Department denies the application for a facility permit; or~~
 - ~~(d) the Department suspends or revokes the existing approval or permit; or~~
 - ~~(e) the prior approval or permit expires and is not renewed or extended by the Department.~~
- ~~(3) Existing Facility Filing Schedule. Except as specified under 310 CMR 19.021(4), Inactive Landfill Facility Filing Schedule, facilities shall file with the Department as follows:~~
- ~~(a) The owner of an existing facility which will operate after July 1, 1992 shall submit an existing facility permit application, as specified at 310 CMR 19.030(4), prior to July 1, 1991 where:~~
 - ~~1. the existing combustion facility is located in an area described in 310 CMR 19.038(2)(b)1. or 2. [Zone II, IWPA, unmonitorable]; or~~
 - ~~2. an existing landfill is located in an area described in 310 CMR 19.038(2)(c)1. or 2. [Zone II, IWPA, Sole Source Aquifer, unmonitorable]; or~~

3. ~~the landfill or combustion facility is approved or permitted to dispose of 50,000 tons per year or more of solid waste.~~
- (b) ~~The owner of an existing facility which will close on or before July 1, 1992 shall file a final closure and post closure plan in accordance with 310 CMR 19.030(3)(c)5. prior to closure of the facility.~~
- (c) ~~The owner of an existing landfill or combustion facility, other than those specified in 310 CMR 19.021(3)(a) or (b), shall file an existing facility application, pursuant to 310 CMR 19.030(4) prior to July 1, 1992.~~
- (d) ~~The owner of an existing handling facility located in an area described in 310 CMR 19.038(2)(b)1. or 2. shall submit a complete registration, in accordance with 310 CMR 19.030(5) prior to July 1, 1991 and a complete existing facility permit application prior to July 1, 1993.~~
- (e) ~~The owner of an existing handling facility, other than those specified in 310 CMR 19.021(3)(d), shall file an existing facility permit application prior to July 1, 1993.~~
- (f) ~~Failure to make a timely submission to the Department in accordance with 310 CMR 19.021(3) shall constitute violation of 310 CMR 19.000.~~

~~(4) Inactive Landfill Facility Filing Schedule [NOTE: This section has been moved to 19.020(2)]~~

- (a) ~~Prior to January 1, 1992, t~~~~The owner of an inactive landfill or dumping ground that was in operation after April 21, 1971 but ceased operations prior to July 1, 1990 shall file:~~
- ~~1. proof that the facility was closed in accordance with plans approved by the Department; or~~
 - ~~2. a final closure and post closure plan in accordance with 310 CMR 19.030(3)(c)5. if the facility was not closed in accordance with a closure/post closure plan approved by the Department.~~
- (b) ~~The owner of an inactive landfill or dumping ground that ceased operations prior to April 21, 1971 may be required to file a final closure and post closure plan if so ordered by the Department.~~

- (5) ~~Pending Actions. Nothing in this section shall modify any Departmental action or order, or any order or judgment of a court of competent jurisdiction pending or final prior to July 1, 1990 or the scope or timetable for performance contained in such judgment or order; or limit the right of the Department to issue administrative orders or penalties or seek court actions based on conditions existing prior to July 1, 1990.~~

19.022: Accelerated Closure Schedules

- (1) ~~Existing Landfills.~~
- (a) ~~Existing landfills which are located in areas described at 310 CMR 19.038(2)(c)1. or 2. [Zone II, IWPA, sole source aquifer, and unmonitored area] shall complete closure of the entire landfill prior to July 1, 1995.~~
- (b) ~~Existing landfills or phases thereof, other than those described above at 310 CMR 19.022(1)(a), shall cease accepting solid waste in all unlined phases prior to January 1, 1994 and shall have completed closure of those unlined phases no later than July 1, 1995.~~

~~(2) Existing Combustion Facilities and Handling Facilities.~~

~~(a) Existing combustion facilities and handling facilities which are located in areas described at 310 CMR 19.038(2)(b)1. or 2. [Zone II, IWPA, or unmonitorable] shall close prior to July 1, 1995, unless:~~

- ~~1. the applicant demonstrates that the continued operation of the facility shall not now nor in the reasonably foreseeable future adversely impact an existing or potential public water supply; and~~
- ~~2. the applicant demonstrates that there are no reasonable alternatives to the continued operation of the facility; and~~
- ~~3. the owner conducts such water and air monitoring, testing and analysis as the Department deems necessary to assess the current and future impact of the facility on public health, safety and the environment and conducts studies for the purpose of finding alternative capacity that is not located in a restricted area.~~

19.030: Application for a Solid Waste Management Facility Permit

(1) General. Any person intending to construct, operate or maintain a solid waste management facility shall file an application for a solid waste management facility permit (permit). Applications shall consist, at minimum, of the plans, descriptions, reports and other information required in 310 CMR 19.030(3), (4), or (5).

(2) Facility Specific Plans. In addition to the plan requirements set forth in 310 CMR 19.030(3), the applicant for a new facility shall submit such additional or alternative information as required in other Parts of 310 CMR 19.000 governing the permitting of specific types of solid waste management facilities.

(3) Application. An application for a new solid waste management facility permit shall include: **[NO OTHER CHANGES PROPOSED IN THIS SECTION.]**

~~(4) Permit Application Requirements for Existing Facilities.~~

~~(a) General Requirements for all existing facilities. An application for a solid waste management facility permit for an existing facility shall include:~~

- ~~1. the names and addresses of the current owner(s) and operator(s);~~
- ~~2. a locus map of the site;~~
- ~~3. a site plan indicating the distances from the border of waste handling and disposal operations to existing and potential public water supplies, the Zone II or IWPA of an existing or potential public water supply, where applicable, and the distances to residences utilizing private drinking water wells within ½ mile of the site;~~
- ~~4. a description of the facility type, permitted tonnage, remaining approved capacity and estimated useful life and the type and quantity of recycling, composting and waste processing occurring on site;~~
- ~~5. the dates and file numbers of the facility site assignment and prior Department approvals or permits for design, construction and operation;~~
- ~~6. a description of the current status of outstanding enforcement actions or compliance orders; and~~

- ~~7. other information, maps or plans as may be required by the Department to determine the facility's compliance with 310 CMR 19.000.~~
- ~~(b) Additional Requirements for Landfills that WILL Dispose of Waste on or after January 1, 1994 and Combustion Facilities. In addition to the submittal requirements specified in 310 CMR 19.030(4)(a), landfills that will dispose of waste on or after January 1, 1994 and combustion facilities shall also include:~~
- ~~1. a description of modified operation and maintenance procedures, environmental monitoring and protection systems accompanied by a plan with a schedule, where necessary, which describes the prospective corrective actions the applicant shall take to bring the facility into compliance with 310 CMR 19.000. In particular, a facility must demonstrate how it will comply with the following sections of 310 CMR:~~
 - ~~a. 310 CMR 19.017: *Waste Control*;~~
 - ~~b. 310 CMR 19.030(3)(c)2., recycling and composting plan;~~
 - ~~c. 310 CMR 19.030(3)(c)4., operation and maintenance plan;~~
 - ~~d. 310 CMR 19.030(3)(c)5., closure/post closure plan;~~
 - ~~e. 310 CMR 19.038, criteria for permit approval;~~
 - ~~f. 310 CMR 19.042, authorization to operate;~~
 - ~~g. 310 CMR 19.061, special waste; and~~
 - ~~h. the facility specific Parts of 310 CMR 19.000 governing environmental protection and monitoring systems.~~
- ~~(c) Additional Requirements for Landfills That WILL NOT Dispose of Waste on or after January 1, 1994. In addition to the submittal requirements specified in 310 CMR 19.030(4)(a), landfills which will not dispose of waste on or after January 1, 1994 shall also file an interim closure plan. The interim closure plan shall include:~~
- ~~1. a topographic map of the site showing current and proposed final grades;~~
 - ~~2. a schedule for closure of the landfill including a schedule for an Initial Site Assessment and scope of work for a Comprehensive Site Assessment as set forth at 310 CMR 19.150;~~
 - ~~3. an estimate of closure and post closure costs to be incurred to close and monitor the site in accordance with 310 CMR 19.000; and~~
 - ~~4. a description of the means by which the owner/operator will finance closure and post closure activities and a schedule of activities which will be conducted to obtain the necessary financing.~~
- ~~(5) Registration for Handling Facilities. Registration for an existing handling facility shall include:~~
- ~~(a) the names and addresses of the current owner(s) and operator(s);~~
 - ~~(b) a locus map of the site;~~
 - ~~(c) a site plan indicating the distances from the border of waste handling and disposal operations to existing and potential public water supplies, the Zone II or IWPA of an existing or potential public water supply, where applicable, and the distances to residences utilizing private drinking water wells within ½ mile of the site;~~
 - ~~(d) a description of the facility type, permitted tonnage, remaining approved capacity and estimated useful life and the type and quantity of recycling, composting and waste processing occurring on site;~~

- ~~_____ (e) the dates and file numbers of the facility site assignment and prior Department approvals or permits for design, construction and operation; and~~
- ~~_____ (f) a description of the current status of outstanding enforcement actions or compliance orders;~~
- ~~_____ (g) other information, maps or plans as may be required by the Department to determine the facility's compliance with 310 CMR 19.000.~~

Intermediate Cover Requirements, 19.130(15)(c)3.

The intermediate cover requirements currently in the landfill regulations do not define a maximum hydraulic conductivity design standard. Currently the regulations define certain soil classifications which can be used as intermediate cover with no prior department approval. The following addition will add a maximum hydraulic conductivity design standard should one of the defined soil classifications not be used as cover material.

TEXT SHOWING CHANGES

19.130(15)(c):

(c) Intermediate Cover.

3. Acceptable Materials.

a. The following soils, classified pursuant to the Unified Soil Classification System, may be used without prior Departmental approval: G.C., S.C., C.H., C.L. and O.H.

b. All other soils proposed for use as intermediate cover at a landfill shall be tested by a qualified laboratory and be approved as intermediate cover by the Department prior to placement. Such soils shall have a maximum hydraulic conductivity of 1×10^{-5} cm/sec.

Annual Reports, 19.046 (new) and 19.130(34)

Landfills are currently required at 310 CMR 19.130(34) to submit annual reports. DEP is proposing to clarify the regulations by specifying annual reporting requirements for other types of solid waste facilities. The information to be submitted will be submitted on forms supplied by the Department on an annual basis. Complete, consistent and accurate data are needed to support the Department's planning and permitting activities and has been requested from facilities through an annual mailing over the past two years.

The proposal adds a new section at 19.046 and expands the requirements for landfill annual reports at 19.130(34).

TEXT SHOWING CHANGES

19.046 Solid Waste Facility Annual Reports

(1) General. The operator of a solid waste facility shall submit to the Department, no later than February 15th of each calendar year, an annual report summarizing the facility's operations for the previous calendar year, provided that the Department may require reporting every six months for facilities permitted at 500 tons per day or greater. The report shall be made on and include information required by a form supplied by the Department. The operator shall submit said annual report to the appropriate Department regional office and the board of health. All amounts shall be reported in tons unless otherwise requested.

(2) Landfill Annual Report. The information to be included in the annual report for landfills is specified in the requirements for landfill operation and maintenance at 310 CMR 19.130(34)(d).

(3) Combustion Facility Annual Report. In general, the annual report of a combustion facility shall describe and summarize the total amount of solid waste received and incinerated; the sources and types of wastes handled and disposed; summarize the on-line availability (ie. excluding downtime for repairs and maintenance) of the facility; demonstrate compliance with waste control and recycling requirements; summarize remaining ash landfill capacity; and other information as may be included on the Department form.

(4) Handling Facility (includes Transfer Stations) Annual Report. The annual report of a handling facility (including transfer stations) shall describe and summarize the total amount of solid waste received and transferred; the sources and types of wastes handled and transferred; the locations to which waste was transferred; the amounts and types diverted to recycling or composting; and other information as may be included on the Department form.

19.130...

(34) Records for Operational and Plan Execution.

(a) The operator shall maintain a daily log to record operational information, including but not limited to the type and quantity of solid waste received and the status of all environmental control or monitoring systems.

(b) The operator of existing or new landfills receiving 100 tons or more per day shall weigh all incoming solid waste.

(c) Operators of landfills that receive less than 100 tons per day shall estimate, on a daily basis, the total weight and volume of waste delivered based upon the capacity of the vehicles which delivered solid waste to the facility.

(d) The operator shall submit to the Department, no later than February 15th of each calendar year, an annual report summarizing the facility's operations for the previous calendar year or portion of a calendar year that waste was handled at the facility. The report shall be prepared on a form supplied by the Department. The report shall be submitted to the appropriate Department regional office and copies shall be sent to the board of health and the Department's Boston office. All amounts shall be reported in tons unless otherwise requested. The report shall describe and summarize:

~~1. the amount of solid waste handled during that year with the quantity reported in tons;~~

1. the total amount of solid waste received and landfilled during the year, including sources of the wastes and types of wastes received;

2. the filled capacity of the facility in cubic yards and the estimated density of the landfilled solid waste;

3. the amount of approved or permitted capacity remaining in the landfill in cubic yards and expected closure date;

4. the volume of daily and intermediate cover material applied to the landfill during that year;

5. all environmental monitoring and sampling data trends from ground water, surface water and gas monitoring systems; ~~and~~

6. a demonstration of how the landfill's operations during the year complied with the provisions of the recycling and composting plan contained as part of the facility's solid waste management permits;

7. a summary of the activities undertaken to implement the waste control provisions of 310 CMR 19.017; and

8. a summary of any operational problems or deficiencies encountered during the year (including odors and nuisances) and including recommendations for changes or modifications to address any problems;

9. any other information as may be required by the Department form.

Special Waste Requirements for Asbestos, 310 CMR 19.061(6)(b)3.

Vinyl asbestos tile (VAT) and certain asphaltic asbestos-containing materials are exempted at 310 CMR 19.061(6)(b)3. from most of the special waste requirements for handling asbestos wastes, except for prohibiting incineration of asbestos wastes. Asbestos fibers are not released to the ambient air from these materials when they are in good condition and are handled properly during removal, repair or disposal. When the materials are in a deteriorated condition or not handled properly, asbestos fibers may be released during handling and disposal.

The Department proposes to explicitly limit the exemption for VAT and asphaltic asbestos-containing materials to circumstances where the materials will not release asbestos fibers during handling and disposal. These limitations are consistent with a policy revision currently under development by the Department's Division of Air Quality Control.

TEXT SHOWING CHANGES

310 CMR 19.061

...

(6) Management Requirements for Special Wastes.

3. Requirements for certain classes of asbestos wastes.

The following asbestos wastes are not subject to the provisions of 310 CMR 19.061 except as specified at 310 CMR 19.061(6)(b)1.a.:

- a. vinyl asbestos tile (VAT) which has been removed intact, is not broken, sanded, sawed, grooved or drilled and has not deteriorated to the point that asbestos fibers may be released during handling or disposal;
- b. asphaltic asbestos-containing materials such as roofing felts, roofing shingles, ~~and~~ asphalt siding products and other asphalt paper-products (Note: This does not include other asbestos containing roofing shingles and siding products such as those containing a cementitious binding characterized as being hard and brittle or other asbestos wastes which the Department has determined may release asbestos fibers during handling, removal, or disposal); and
- c. other asbestos waste designated by the Department.

Landfill Monitoring Requirements, 19.130(35), 19.132

The Department is proposing to modify the landfill monitoring requirements to standardize monitoring requirements for all media. A new section has been added to 19.132, Environmental Monitoring Requirements.

The Department is also proposing to standardize certification and submission of monitoring reports and specify what needs to be submitted, including lab sheets, field logs, water elevations, and data summaries. The proposal also indicates what is unacceptable.

The Department is proposing that confirmatory sampling be conducted soon after regulatory limits are exceeded during routine sampling of groundwater and surface water.

The proposed modifications also clarify certain ambiguities contained in the regulations. For example:

- a) The proposed language will specify that sampling should be done during the landfill's active life and continue THROUGH to post-closure.
- b) The proposed language will require that sampling and investigations beyond those required should be reported to the Department. This is to ensure that if a landfill operator or owner conducts site investigations that the results of such investigations are reported to DEP.

The regulations have also been modified to indicate that leachate must be sampled at least twice a year. Previously, operators were required to sample leachate at the same time as their surface water and groundwater sampling events.

TEXT SHOWING CHANGES

19.130

(35) Inspections.

- (a) The facility shall be inspected by a registered professional engineer, or other qualified professional approved by the Department, experienced in solid waste management, and retained by the owner/operator, on a frequency approved by the Department in the Operation and Maintenance Plan.
- (b) An inspection shall:
 1. be reported in writing and shall describe in detail the status and condition of all operating and monitoring equipment, appurtenances and devices; ~~the results of any monitoring programs required by 310 CMR 19.000, permits or orders;~~ any deviation from compliance with operation and maintenance requirements set forth at 310 CMR 19.130, the site assignment, permit, or the authorization to operate, any actions taken to correct such deviations, as required by the Department or recommended by the inspecting engineer; and schedules to correct identified problems.
 2. be signed and dated by the inspecting engineer, or other professional approved by the Department, certifying that to the best of his/her knowledge all information is accurate and complete.

- (c) The operator shall submit one copy of the inspection report to the Department and one copy to the board of health no later than seven days following the date of the inspection.
- (d) The operator shall be responsible for the timely submission of inspection reports to the Department and the board of health.

19.132: Environmental Monitoring Requirements.

(1) General

- (a) The owner/operator shall conduct environmental monitoring during the facility's active operation and continue through the post-closure period set forth in 310 CMR 19.142(2).
- (b) The owner/operator shall conduct environmental monitoring in accordance with the facility's operating permit, an approved environmental monitoring plan and/or as required by the Department in accordance with 310 CMR 19.118. Ground Water, Surface Water and Gas Monitoring Systems. The environmental monitoring plan shall include:
 - 1. sampling locations;
 - 2. as-built monitoring well construction plans and boring logs;
 - 3. sampling protocol;
 - 4. sampling parameters; and
 - 5. monitoring schedule.
- (c) All sampling and analysis shall be performed in accordance with methods approved by the Department.
- (d) Results of all sampling and investigations performed at any solid waste facility shall be submitted to the Department within 60 days of the sampling and investigation unless otherwise directed by regulation or the Department to submit such information within a shorter time period.

(2) ~~(1)~~ Surface and Ground Water Monitoring.

- ~~(a) Sampling and analysis of surface and ground water shall be done in accordance with methods approved by the Department.~~
- ~~(b) The owner/operator shall conduct surface and ground water monitoring at sampling points established in the permit and/or as required by the Department.~~
- ~~(d) (a) The owner/operator shall conduct surface and ground water monitoring at locations and on a schedule established in the permit or as required by the Department. At a minimum monitoring shall be performed every six (6) months except as required pursuant to 310 CMR 19.132(1)(e)(2)(b).~~
- ~~(e) (b) The owner/operator shall establish background surface water and ground water quality at sampling points hydraulically upgradient of the landfill. Background water quality shall be determined by a minimum of four quarterly rounds of samples for each of the monitoring parameters or constituents listed in 310 CMR 19.132(2)(d)(1)(h).~~

["(e) has been moved to 'Certification & Submission of Monitoring Reports"]

- ~~(f) All analytical results shall be submitted to the Department within 60 days after the scheduled sampling period specified in the permit.~~

(g) (c) Static ground water elevations and total well depth shall be recorded prior to collecting a ground water sample whenever a monitoring well is to be sampled.

(h) (d) At a minimum, surface and ground water samples shall be analyzed for the following parameters:

1. Indicator parameters:

- a. pH (in situ);
- b. Alkalinity;
- c. Temperature (in situ);
- d. Specific Conductance (in situ);
- e. Nitrate Nitrogen (as Nitrogen);
- f. Total Dissolved Solids;
- g. Chloride;
- h. Iron;
- i. Manganese; and
- j. Sulfate
- k. Chemical Oxygen Demand (COD)
- l. Dissolved Oxygen

2. Inorganics:

- a. Arsenic;
- b. Barium;
- c. Cadmium;
- d. Chromium
- e. Copper
- f. Cyanide;
- g. Lead;
- h. Mercury;
- i. Selenium;
- j. Silver; and
- k. Zinc.

3. all of the compounds included in EPA Method 8260, as amended, and methyl ethyl ketone, methyl isobutyl ketone, and acetone. In addition, unknown peaks having intensities greater than five times the background intensity shall be identified (Method 8260 is detailed in the EPA publication SW-846, entitled *Test Methods for Evaluating Solid Waste.*); and

4. any additional parameters required by the Department.

(i) (e) If the concentrations of any of the parameters listed in 310 CMR 19.132(1)(h)(2)(d) exceed, at any sampling point: (a) the state or federal drinking water standards; (b) Maximum Contaminant Levels (MCLs) or alternative standards established in a permit; or (c) guidelines or standards established by a permit, order or authorization issued by the Department for contaminants for which no federal or state standard exists, the owner/operator shall;

1. notify the Department within 14 days of the finding;
2. conduct confirmatory sampling and submit the results to the Department within a timeframe specified by the Department. ~~collect, analyze and submit to the Department another round of samples within 60 days of the prior date of sample collection and determine the~~

~~concentration of all parameters identified in 310 CMR 19.132(1)(h) or as specified by the Department.~~

~~(j)~~ (f) Where the Department determines, based upon the ground and surface water analyses from the facility, upgradient water quality and baseline water quality, that assessment and corrective actions shall be required, the operator shall undertake the assessment and corrective actions as determined by the Department.

(3) Leachate Monitoring.

(a) The operator shall monitor the quantity and quality of leachate as deemed necessary by the Department or as specified in the leachate discharge permit.

(b) At a minimum, unless otherwise specified in the permit or allowed by the Department, the leachate shall be monitored semiannually for the parameters listed in 310 CMR 19.132(1)(h)(2)(d).

~~(b) The operator shall submit, in addition to permit requirements, the results of the leachate monitoring to the Department with the inspection reports required pursuant to 310 CMR 19.130(35).~~

(c) Unless otherwise specified by the permit, the operator shall submit the results of the leachate monitoring to the Department at the time the surface and ground water monitoring results required at 310 CMR 19.132(1) are submitted. When leachate monitoring is conducted more frequently than semiannually, a summary of the monitoring results shall be submitted.

~~(2)~~ (4) Monitoring of the Secondary Leachate Collection or Leak Detection System.

(a) The operator shall monitor the quantity and quality of leachate collected by the secondary leachate collection system or leak detection system, where such a system has been constructed. Monitoring shall be accomplished as specified in the solid waste management facility permit, the leachate discharge permit or as deemed necessary by the Department.

~~(b) The operator shall submit, in addition to permit requirements, the results of the leachate monitoring from the secondary leachate collection system or leak detection system to the Department with inspection reports.~~ the surface and ground water monitoring results required at 310 CMR 19.132(1)(2) or as specified in the permit.

~~(c) Where leachate may have entered the secondary leachate collection system or leak detection system in excess of design standards, the operator shall notify the Department within 14 days and, where~~ Where leachate is determined by the Department to have entered the secondary leachate collection system or leak detection system in excess of design standards, the operator shall undertake the actions specified under 310 CMR 19.150: *Landfill Assessment and Corrective Action* as required by the Department.

~~(4)~~ (5) Gas Monitoring.

(a) The operator shall sample and physically and chemically characterize the ~~recovered~~ landfill gas, condensates, or any other residues generated, and submit a copy of such analyses to the Department.

~~(b) Gas monitoring shall be conducted as follows:~~

- ~~1. Sampling and analysis of landfill gas shall be done in accordance with methods approved by the Department.~~

- ~~2. The owner/operator shall conduct landfill gas monitoring at sampling points established in the permit and/or as required by the Department.~~
- ~~3. The owner/operator shall conduct landfill gas monitoring at locations and on a schedule established in the permit or as otherwise required by the Department. At a minimum monitoring shall be performed quarterly.~~
- ~~(c) The Department may not accept landfill gas monitoring data where:~~
- ~~1. the sample was taken from a gas monitoring device for which the Department has not received and approved as built construction plans and locations; or~~
 - ~~2. the sample was taken from a gas monitoring device constructed in a manner not approved by the Department; or~~
 - ~~3. the analyses were performed by a laboratory other than an approved laboratory, unless the sample is accompanied by a complete QA/QC submittal.~~
- ~~(d) All analytical results shall be submitted to the Department within 60 days after the scheduled sampling period specified in the permit.~~
- ~~(e) Gas monitoring shall be conducted during the facility's active operation and for continue through the post closure period set forth in 310 CMR 19.142(2).~~
- ~~(f) (c) Landfill gas samples shall be analyzed for volumes and concentrations of explosive gases. In addition, the Department may require monitoring for the following:~~
- ~~1. hydrogen sulfide;~~
 - ~~2. volatile organic compounds; and~~
 - ~~3. any additional parameters required by the Department.~~
- ~~(g) (d) When, at any time, the concentration of explosive gasses exceeds 10% of the lower explosive limit (LEL) in any building, structure, or underground utility conduit, excluding gas control, gas recovery and leachate collection system components, the owner/operator shall:~~
- ~~1. take immediate action to protect human health and safety;~~
 - ~~2. notify the Department within two hours of the finding; and~~
 - ~~3. undertake the actions specified under 310 CMR 19.150, Landfill Assessment and Corrective Action, as required by the Department.~~
- ~~(h) (e) Except in buildings, structures and underground utility conduits for which 310 CMR 19.132(4)(g) (5)(d) applies, when, at any time, the concentration of explosive gasses exceeds 25% of the lower explosive limit (LEL) at the property boundary or beyond, excluding gas control, gas recovery and leachate collection system components, the owner/operator shall:~~
- ~~1. take immediate action to protect human health and safety;~~
 - ~~2. notify the Department within 24 hours of the finding; and~~
 - ~~3. undertake the actions specified under 310 CMR 19.150, Landfill Assessment and Corrective Action, as required by the Department.~~
- ~~(i) (f) When the concentration of any of the parameters for which monitoring is required at 310 CMR 19.132(5)(c) exceeds any permit standards or federal or state regulations the owner/operator shall notify the Department within 14 days of the finding and undertake the actions specified under 310 CMR 19.150, Landfill Assessment and Corrective Action, as required by the Department.~~

(5) (6) Certification and Submission of Monitoring Reports

(a) All submissions required pursuant to 310 CMR 19.132 shall be signed and dated by a competent professional experienced in relevant sampling and analyses techniques certifying that to the best of his/her knowledge all information is accurate and complete.

(b) All submissions to the Department shall be made to the appropriate Department Regional Office. A copy of each submission shall be sent to the board of health.

(c) The owner/operator shall be responsible for the timely submission of all reports required pursuant to 310 CMR 19.132.

(d) The owner/operator is responsible to comply with any other applicable local, state or federal reporting requirements, including those contained in 310 CMR 40.

(e) The owner/operator shall submit the following in the monitoring report:

1. Laboratory data sheets.
2. Field sampling logs.
3. Groundwater elevation at time of sampling.
4. Data summary tables.

the following have been moved from the previous 19.132(1)(e) to here

(f) The Department may refuse to accept monitoring data where **it determines that the operator has not complied with the applicable monitoring requirements, including:**

1. the sample was taken from a **sampling locations** ~~ground-water monitoring well~~ for which the Department has not received and approved as-built construction plans, boring logs and well locations;
2. the sample was taken from a **sampling location** ~~ground-water monitoring well~~ constructed in a manner not approved by the Department;
3. the analyses were performed by a laboratory other than a Massachusetts certified laboratory, unless the sample is accompanied by a complete QA/QC submittal; or
4. the sample was not handled in accordance with the sampling and preservation requirements (*e.g.*, sample container, holding time and sample volume) specified by the testing method.

Correction to Transfer Station Regulations, 19.215

Correct a spelling error at 19.215(1) and correct 19.215(3) to say "transfer station" rather than "disposal site" since a transfer station is not a disposal site.

TEXT SHOWING CHANGES

19.215: Recycling Operations

(1) The operator may make provisions for the recycling of materials provided that a definite plan of procedure is implemented and followed to enable said operation to be carried out in an organized, sanitary, orderly and dependable manner with minimal interference to the ~~routine~~ routine transfer station operations.

(2) Any container, or specially designed enclosed area, used for the storage of recyclable materials (such as glass, cans, paper, *etc.*) shall be clearly identified and maintained in a clean and sanitary condition and the surrounding areas shall be kept in a similar condition.

(3) All accumulated recyclable materials shall be removed from the ~~disposal site~~ transfer station at least every 60 days and/or at such other times as may be specified by the Department.

(4) Refuse of a nature or in quantities that cause odor or pose a threat to the public health or are detrimental to the environment or the surrounding area shall not be accumulated.

Numbering Errors: 19.023(3)(c), 19.061(6)(b)2, 19.100 and 19.105(1)

The secretary of State reformatted the regulations in 1994 and replaced references to Parts I, II and III with the corresponding section numbers. (e.g., Part I was replaced with 310 CMR 19.001-19.099.) The addition of sections 19.200 through 19.204 in september, 1994 resulted in references to what was previously Part II (19.100-19.204). The following corrections fix these mistakes.

NOTE: these corrections have no effect on the meaning of the regulations.

TEXT SHOWING CHANGES

19.023(3)(c)...

7. the facility is operating in compliance with 310 CMR ~~19.205~~ 19.200-19.299.

19.061(6)(b)2....

c. Asbestos waste shall be placed in the landfill using a method approved by the Department. The approved method shall be as described in 310 CMR 19.100 through ~~19.204~~ 19.199 in Department guidance or in a Department approval or permit. All such approved placement methods shall include requirements that the asbestos waste is covered by sufficient amounts of either solid waste that does not contain asbestos and/or daily cover material to assure that no asbestos fibers are released to the air during or subsequent to compaction.

d. Accurate records of the surveyed location in the landfill of all asbestos waste shall be maintained. Locations of asbestos deposition shall be noted in the Record Notice of Landfill Operation pursuant to 310 CMR 19.100 through ~~19.204~~ 19.199. Locations of asbestos deposition shall also be included whenever information regarding the property is recorded on the property deed pursuant to M.G.L. c. 111, § 150A.

19.100: Preamble

310 CMR 19.100 through ~~19.204~~ 19.199 establishes minimum performance and design standards; operation and maintenance standards; and closure/post-closure requirements for solid waste landfills by supplementing, modifying or expanding upon the provisions of 310 CMR 19.000 through 19.099. Combined, these two sets of regulations govern all solid waste disposal activities at landfills. The procedures for application, approvals, authorizations, and transfers of such rights and interests are set forth in 310 CMR 19.000 through 19.099.

19.105: Equivalency Review Standards and Procedures

| (1) Where specific sections of 310 CMR 19.100 through ~~19.204~~ 19.199 permit the submission of design alternatives, the following equivalency review standards and procedures apply.